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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,735	04/05/2006	Siegfried Oesterle	SFS-PT065 (P0381US)	5435

3624 7590 12/14/2009
VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER

HAUGLAND, SCOTT J

ART UNIT	PAPER NUMBER
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3654

MAIL DATE	DELIVERY MODE
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12/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,735	Applicant(s) OESTERLE ET AL.	
	Examiner SCOTT HAUGLAND	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/6/09 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3654

Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wier (U.S. Pat. No. 6,206,315).

Wier discloses a torsion bar 10, 12 for application in belt winders for safety belts, comprising a bar having end sections on which drive and/or locking elements for positive connection to respective devices are arranged. The torsion bar is made of aluminum and has a conical section or flute between the drive and/or locking elements.

The bar appears to be the same as the claimed torsion bar. Assuming, *arguendo*, that it is not, it would have been obvious to form the bar in one piece in a cold forming impact extrusion process since it is old and well known to form metal objects using such a process. The torsion bar of Wier is capable of being exchanged for another bar having a different diameter as recited in claim 1, lines 7-8.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wier (U.S. Pat. No. 6,206,315).

Wier does not disclose that the aluminum has a 99.5% by vol. purity.

It would have been a matter of obvious engineering choice to one having ordinary skill in the art at the time the invention was made to form the torsion bar of aluminum having a purity of 99.5% since it would have required no more than routine experimentation to determine the acceptable level of purity of aluminum to obtain the desired workability and energy absorbing capability.

Response to Arguments

Applicants' arguments filed 10/6/09 have been fully considered but they are not persuasive.

Applicants argue that Wier does not suggest a torsion bar where different torques in relation to deformation of the bar at constant sizes of drive or locking elements are achieved by exchanging the bar with another bar having a different diameter and that Wier does not show drive or locking elements arranged on end sections of the bar. However, the claims are directed to a torsion bar and not a method of use of a torsion bar. The claimed use of the torsion bar involving exchange with a different torsion bar does not distinguish over the torsion bar in Wier because the torsion bar in Wier is capable of the claimed use, i.e., it can be exchanged for a torsion bar having a different diameter. Note the drive or locking elements on the ends of the torsion bar in Wier (e.g., in Fig. 2a).

Applicants argue that Wier does not disclose a non-ferrous metal bar produced in one piece in a cold forming impact extrusion process. However, the claims are directed to a torsion bar and not to a process of making one. The torsion bar in Wier is made of a non-ferrous metal (aluminum is disclosed). The torsion bar appears to be the same as one produced by the claimed process. Even assuming, *arguendo*, that it is not, it would have been obvious to an ordinary artisan to form a torsion bar having the structure disclosed in Wier by the recited process because the process is an old and well known one for forming metal parts. Wier discloses making the torsion bar of aluminum (implying substantially pure aluminum) or an aluminum alloy. Determination

Art Unit: 3654

of an acceptable purity would have required routine experimentation at most since the properties of aluminum and its alloys are well known.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT HAUGLAND whose telephone number is (571)272-6945. The examiner can normally be reached on Mon. - Fri., 10:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on (571) 272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/
Supervisory Patent Examiner, Art Unit 3654

/SJH/